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UNITHER PHARMA, INC., THE BOARD OF TRUSTEES  
OF THE LELAND STANFORD JUNIOR UNIVERSITY,  
and NEW YORK MEDICAL COLLEGE

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Attorneys for Defendant/Declaratory Judgment Plaintiff  
HERBALIFE INTERNATIONAL, INC.

ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITHER PHARMA, INC. and  
THE BOARD OF TRUSTEES OF THE  
LELAND STANFORD JUNIOR UNIVERSITY,

Plaintiffs and Counter-Defendants,

v.

HERBALIFE INTERNATIONAL, INC.,

Defendant and Counter-Claimant.

HERBALIFE INTERNATIONAL, INC.

Plaintiff and Counter-Defendant,

v.

UNITHER PHARMA, INC., THE BOARD OF  
TRUSTEES OF THE LELAND STANFORD  
JUNIOR UNIVERSITY, and NEW YORK  
MEDICAL COLLEGE,

Defendants and Counter-Claimants.

Case Nos. C 03-5090 JW and C 03-5878 JW

**STIPULATION OF DISMISSAL WITH  
PREJUDICE AND [PROPOSED] ORDER**

1 It is hereby stipulated that related Civil Action Nos. C03-5090 JW and C03-5878 JW  
 2 between Unither Pharma, Inc. ("Unither Pharma"), The Board of Trustees of the Leland Stanford  
 3 Junior University ("Stanford"), New York Medical College ("NYMC") (collectively, "Plaintiffs")  
 4 and Herbalife International Inc. ("Herbalife"), including all claims and counterclaims filed therein,  
 5 are hereby dismissed pursuant to Fed. R. Civ. P. 41 (a) and 41(c).

6 This dismissal is with prejudice, except that Herbalife shall retain the right to challenge the  
 7 validity and enforceability of the patents-in-suit in the event of any future litigation initiated by  
 8 any of the Plaintiffs or their successors or assigns against Herbalife, its manufacturers, distributors  
 9 or customers invoking the patents-in-suit, whether or not such future litigation concerns the same  
 10 or different accused products.

11 Dated: November 7, 2006

FISH & RICHARDSON P.C.

12  
 13 By: /s/

Karen I. Boyd

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 25 UNITHER PHARMA, INC. AND THE  
 26 BOARD OF TRUSTEES OF THE LELAND  
 27 STANFORD JUNIOR UNIVERSITY

1 Dated: November 7, 2006

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Attorneys for HERBALIFE  
INTERNATIONAL, INC.

1 IT IS SO ORDERED.  
2  
3

4 DATED: \_\_\_\_\_

\_\_\_\_\_  
The Hon. James Ware  
United States District Judge

**DECLARATION OF CONSENT**

I, Karen I. Boyd, hereby attest:

1. Concurrence in the filing of the following document has been obtained from each of the other signatories, which shall serve in lieu of their signatures on the document:

**STIPULATION OF DISMISSAL WITH PREJUDICE AND [PROPOSED] ORDER**

2. I shall maintain records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party until one year after final resolution of the action pursuant to General Order 45 of the United States District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in Redwood City, California on November 7, 2006.

Dated: November 7, 2006

FISH & RICHARDSON P.C.

By: /s/  
Karen I. Boyd

Attorneys for Plaintiffs  
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